

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Debra Mayfield Guilbeaux,

Plaintiff, Case No. 19-13728

v.

Judith E. Levy
United States District Judge

City of Detroit, *et al.*,

Mag. Judge Anthony P. Patti
Defendants.

/

ORDER ADOPTING REPORT AND RECOMMENDATION [37]

Before the Court is Magistrate Judge Anthony P. Patti's Report and Recommendation ("R&R") recommending the Court grant in part and deny part Plaintiff's motion for leave to amend (ECF No. 34), grant Defendants' motion to dismiss (ECF No. 19), specifically as follows: (1) dismiss Defendant Mayor's Office from the lawsuit, as well as Mayor Duggan himself, to the extent Plaintiff names him as a Defendant; (2) dismiss Plaintiff's 42 U.S.C. § 1981 claims in Counts I and II against all Defendants; (3) dismiss Plaintiff's state law public policy and tort claims against all Defendants; (4) dismiss Plaintiff's 42 U.S.C. § 1983 claims under Counts I and II against all Defendants; and (5) dismiss Plaintiff's

§ 1983 equal protection claim under Count III against all Defendants. (ECF No. 37.) Finally, the R&R recommends that the Court decline to exercise supplemental jurisdiction over Plaintiff's Elliott-Larsen Civil Rights Act ("ELCRA"), Mich. Comp. Laws § 37.2101 *et seq.* claim (and any other remaining state law claims) without prejudice to refiling them in state court and dismiss all other claims with prejudice. (*Id.*)

The parties were required to file specific written objections within 14 days of service. Fed. R. Civ. P. 72(b)(2); E.D. Mich. L.R. 72.1(d). No objections were filed. The Court has nevertheless carefully reviewed the R&R, and concurs in the reasoning and result. Accordingly,

The Report and Recommendation (ECF No. 37) is ADOPTED;
Plaintiff's motion for leave to amend is GRANTED IN PART AND DENIED IN PART (ECF No. 34), and the operative complaint is amended only as to the removal of Plaintiff's ADEA claim from Count I.

Defendants' motion to dismiss (ECF No. 19) is GRANTED as follows:

(1) Defendant Mayor's Office as well as Mayor Duggan himself (to the extent Plaintiff names him as a Defendant) are dismissed;

- (2) Plaintiff's 42 U.S.C. § 1981 claims in Counts I and II against all Defendants are dismissed;
- (3) Plaintiff's state law public policy and tort claims against all Defendants are dismissed;
- (4) Plaintiff's 42 U.S.C. §1983 claims under Counts I and II against all Defendants are dismissed; and
- (5) Plaintiff's § 1983 equal protection claim under Count III against all Defendants is dismissed.

Plaintiff's remaining count is under the ELCRA, which is a claim controlled by Michigan law. The Court DECLINES to exercise supplemental jurisdiction over this claim, and Plaintiff is free to refile in state court. All other counts, as set forth above, are DISMISSED WITH PREJUDICE.¹

IT IS SO ORDERED.

Dated: February 11, 2021
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

¹ The parties, by failing to object to the R&R, have waived any further right of appeal. *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on February 11, 2021.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager